

CHAPTER XLVII.

[S. B. No. 56.]

RELATING TO TRADE MARKS.

AN ACT relating to trade marks.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Whenever any person, or any association or union of workmen has heretofore adopted or used, or shall hereafter adopt or use, and has filed as hereinafter provided any label, trade mark, term, design, device or form of advertisement for the purpose of designating, making known, or distinguishing any goods, wares, merchandise or other product of labor, as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of workmen or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade mark, term, design, device or form of advertisement, or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such label, trade mark, term, design, device or form of advertisement.

Trade marks
of unions
protected.Violation
defined.

SEC. 2. Whoever counterfeits or imitates any such label, trade mark, term, design, device or form of advertisement, or sells, offers for sale, or in any way utters or circulates any counterfeit or imitation of any such label, trade mark, term, design, device or form of advertisement; or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed; or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor, in any box, case, can or package, to which or on which any such coun-

Violation fur-
ther defined.

Penalty. terfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than three months.

File with secretary of state.

SEC. 3. Every such person, association or union, that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade mark, term, design, device or form of advertisement, as provided in section one of this act, may file the same for record in the office of the secretary of state by leaving two copies, counterparts or fac-similes thereof, with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed, the class of merchandise and a description of the goods to which it has been, or is intended to be appropriated, stating that the party so filing or on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed, has the right to the use of the same, that no other person, firm, association, union or corporation has the right to such use either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the fac-simile or counterparts filed therewith are true and correct. There shall be paid, for such filing and recording, a fee of two dollars. Said secretary shall deliver to such person, association or union so filing or causing to be filed any such label, trade mark, term, design, device or form of advertisement, so many duly attested certificates of the recording of the same as such person, association or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificate of record shall, in all suits and prosecutions under this act, be sufficient proof of the adoption of such label, trade mark, term, design, device or form of advertisement. Said secretary of state shall not record for any person, union or association, any label, trade mark, term, design, device or form of advertisement that would probably be mistaken for any label, trade mark, term, design, device or form of advertisement

Fee for recording.

Certificate of record.

theretofore filed by or on behalf of any other person, union or association.

SEC. 4. Any person who shall, for himself, or on behalf of any other person, association or union, procure the filing of any label, trade mark, term, design or form of advertisement in the office of the secretary of state, under the provisions of this act, by making any false or fraudulent representations or declaration, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by or on behalf of the party injured thereby, in any court having jurisdiction, and shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding three months.

SEC. 5. Every such person, association or union adopt-
ing or using a label, trade mark, term, design, device or
form of advertisement, as aforesaid, may proceed by suit
to enjoin the manufacture, use, display or sale of any
counterfeits or imitations thereof, and all courts of compe-
tent jurisdiction shall grant injunctions to restrain such
manufacture, use, display or sale, and may award the com-
plainant in any such suit damages resulting from such
manufacture, use, sale or display, as may be by the said
court deemed just and reasonable, and shall require the de-
fendants to pay to such person, association or union all
profits derived from such wrongful manufacture, use, dis-
play or sale; and such court shall also order that all such
counterfeits or imitations in the possession or under the
control of any defendant in such cause be delivered to an
officer of the court, or to the complainant, to be destroyed.

May enjoin.

Counterfeits to
be destroyed.

SEC. 6. Every person who shall use or display the
genuine label, trade mark, term, design, device or form of
advertisement of any such person, association or union, in
any manner, not being authorized so to do by such person,
union or association, shall be deemed guilty of a misde-
meanor, and shall be punished by imprisonment for not
more than three months, or by a fine of not more than one
hundred (100) dollars. In all cases where such associa-
tion or union is not incorporated, suits under this act may

Penalty for un-
authorized use
of labels, trade
marks, etc.

be commenced and prosecuted by an officer or member of such association or union on behalf of and for the use of such association or union.

SEC. 7. Any person or persons who shall, in any way, use the name or seal of any such person, association or union or officer thereof, in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, and shall be punishable by imprisonment for not more than three months, or by a fine of not more than one hundred dollars.

Penalty for defacing or removing label, trade mark, etc.

SEC. 8. Any person using the trade mark so adopted and filed by any other person, or any imitation of such trade mark, or any counterfeit thereof; or who shall, in any manner mutilate, deface, destroy or remove such trade mark from any goods, wares, merchandise, article or articles, or from any package or packages containing the same, or from any empty or second hand package which has contained the same or been used therefor, with the intention of using such empty or second hand package, or of the same being used to contain goods, wares, merchandise, article or articles of the same general character as those for which they were first used; and any person who shall use any such empty or second hand package for the purpose aforesaid, without the consent in writing of the person whose trade mark was first applied thereto or placed thereon shall, upon conviction thereof, be fined in any sum not less than one hundred dollars, or by imprisonment for not more than three months, and the goods, wares, merchandise, article or articles, contained in any such second hand package or packages shall be forfeited to the original user of such package or packages whose trade mark was first applied thereto or placed thereon. The violation of any of the above provisions as to each particular article or package shall be held to be a separate offense.

SEC. 9. The word "person," in this act, shall be construed to include a person, co-partnership, corporation, association or union of workmen.

SEC. 10. Sections 3125, 3126, 3127, 3128, 3129 and 3130 of volume 1, Hill's Annotated Statutes and Codes of

Washington, and all acts amendatory thereof, be and the same are hereby repealed.

Passed the Senate February 9, 1897.

Passed the House March 3, 1897.

Approved by the Governor March 9, 1897.

CHAPTER XLVIII.

[H. B. No. 260.]

FOR THE RELIEF OF T. M. ALVORD.

AN ACT making an appropriation for the relief of T. M. Alvord, on account of failure in title to university lands.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That there be and hereby is appropriated out of any money in the several funds in the state treasury, not otherwise appropriated, the sum of one hundred and ninety dollars, for the relief of T. M. Alvord, on account of failure of title to university lands purchased by the said Alvord on the 21st day of November, 1864, in accordance with the adjudication of the title as made by the superior court of the State of Washington, for the county of King, and in accordance with the certificate of the auditor of state issued thereon, on the 7th day of October, 1891. That the state auditor is hereby directed to draw his warrant on the state treasury for the payment of the amount as aforesaid, and deliver the same to the said Alvord upon receiving the proper receipt therefor, and in full satisfaction of his claim.

Passed the House March 2, 1897.

Passed the Senate March 6, 1897.

Approved by the Governor March 10, 1897.